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September 16, 2005

Also by E-mail: kmoxon@earthlink.net

Re: *Scientology v. Armstrong*

Dear Mr. Moxon:

I am obviously in receipt of your request for dismissal and the Court of Appeal's dismissal of your appeal of the Marin Superior Court's April 2004 judgment, which stated that it would be unconscionable to punish me beyond what the benefit was that was conferred to me. I've webbed your request and the Court's dismissal and I will web this letter on my site's Armstrong VII Appeal section.

What brought me to write you are the reasons you gave to the Court of Appeal for your request to dismiss your appeal, specifically my "flight from the United States and the unlikelihood that the $500,000 awarded can be collected." Because of the legal situation in which you and your client have put me, it is prudent to challenge you on this statement. I will also use this opportunity to address the effect your dismissal has on your writ petition and on other aspects of my legal relationship with your client, and to see if we can reach an agreement on certain procedural matters.

I left California, as you know, and traveled to British Columbia in January 1997. I resided briefly in Nevada in late 1997 and part of 1998, but was forced to return to B.C. at that time. As you know, you filed *Scientology v. Armstrong*, Marin Superior Court Case No. CV 021632 (Armstrong VII), the lawsuit underlying the appeal, in April 2002, almost four years after I finally left the U.S. As you know, you filed the appeal and the writ petition in July 2004, almost six years after I left the U.S.

As you know, I was physically present in Marin County, California in April 2004 at the trial that resulted in the "Order Granting Plaintiff's Motion for Judgment," which you appealed, and the "Order Re Sentences for Contempt," which you seek to vacate by writ. As you know, while I was physically present, Judge Duryee discharged all jail sentences and fines that your client had obtained against me. Obviously the warrants you had issued for my arrest, if they had not expired, were withdrawn when Judge Duryee dispensed with the sentences. As you know, she stated in her order, which you urge the Court of Appeal to vacate, that I had "personally appeared." In fact, as you know, I was so physically present at trial that she stated in her order that the jail time to which I was sentenced was deemed served by my appearance in Court. You yourself state as much in your reply brief, although you refer to my physical presence as "mere appearance." There is no legal impediment to my coming to California or anywhere else in the U.S., and you cannot but know this.

As you know, on March 1, 2005 I served you with my request for oral argument by "*personal appearance*" in the appeal and the writ. You further knew of my intention to be physically present in San Francisco for oral argument because I sent you an e-mail letter on September 1 expressing exactly this intention in connection with my need to make travel arrangements and to avoid any scheduling chicanery or unnecessary expense. Your request for dismissal of the appeal is dated as signed and served September 2.

You knew when you signed and filed your request for dismissal that there was no "flight from the U.S.," and certainly no flight from the U.S. that was suddenly causing you and your client on September 2, after oral argument was scheduled, to give up on your appeal of Judge Duryee's judgment. You are lying to avoid legal responsibility, and you are black PRing me to the Court of Appeal on whom I immediately

depend for my freedom and human dignity, and I would think you would now advise the Court of the truth.

As you know, your client and its lawyers and other agents have for years been black PRing me around the globe with this same baseless set of lies that I fled the U.S., that I'm a criminal, that I'm a "fugitive from justice." As you know, even your writ petition that you are still prosecuting contains the same sinister lie.

> On June 5, 1997, Judge Thomas issued an order of contempt, finding that Armstrong "willfully disobeyed the Order." [ ] Judge Thomas ordered that Armstrong pay a fine of $1,000 and be confined in the County Jail for two days.[ ] Armstrong fled the jurisdiction, and on August 6, 1997, Judge Thomas issued a bench warrant for his arrest.

You, Kendrick Moxon, are trying to have me jailed, and have who knows what befall me in jail, with willful lies. The abuse of process you and your client are engaged in here is gargantuan. If you really believed, and if your client and its former attorney Andy Wilson had believed that what you were doing was lawful, and had an end to the judicial process allowed by law, none of you would have resorted to telling the lies you've told.

Keep in mind your client's efforts in Russia in 2001 to get me harassed, detained or worse by the Federalnaya Sluzhba Bezopasnosti, and even by American agents in Russia, with your client's black PR to a host of Russian officials and agencies and the U.S. Embassy in Moscow that I was a "fugitive from justice." Keep in mind too your client's effort to have me prosecuted in Russia in 2003 on the basis of your ill-gotten contempt orders in California.

Don't forget the black PR on me containing the same lies that your client published and distributed all over Germany in 2002 and 2003. E.g.,

> Finally the Superior Court of the Marin district in California issued a warrant for Armstrong's arrest on May 15, 1998, with possible fine and incarceration for criminal disregard of the court. This resulted in Armstrong's moving out of the country to evade punishment and escape the law.

Don't forget the 2003 Autobahn Schrecklichkeit involving your client's agent Mirko Otto, also engineered and "justified" on the basis of my being a "fugitive from justice." Don't forget the shockingly false testimony of your fellow Scientology lawyer Wilhelm Blümel in 2004, telling the same pack of lies black PRing me as a criminal and a fugitive from justice to the Court in Brandenburg, Germany trying the Otto case.

Of course nobody forgets the Philip Helmer Operation, which your client has been running for more than a year right here in my hometown in British Columbia, to spy on, entrap and harm my wife Caroline and me. As you know, I've webbed a declaration I executed September 5 concerning this clear Scientology op. I believe you are involved in the Helmer Op, and its timing relates to your litigation actions against me, including your dismissal of the appeal and your continuing prosecution of your writ petition.

Your client's lies, and your lies, that I fled the U.S. and am a fugitive from justice are sinister because they signal the evil Scientology's leaders are willing to do to make themselves right in their lies. You people in the Miscavige regime mock up Scientology as "just," when it is the very height of unjustness, just to make it a point of "honor" to hurt people like Caroline and me. I believe that to be right in their global black PR campaign on me, which you personally forward for them in execution of the "Suppressive Person" doctrine, Scientology's leaders would even murder me. After all, a dead person wouldn't be returning to the U.S., and Scientology's black PR agents like yourself can say whatever they want about your client's victims, if they are dead, with legal impunity. By murdering me, your client would make itself right and make me forever dead wrong. I have no reason to doubt that you would personally facilitate and use whatever harm your client wishes or is able to cause me, just as you've facilitated and used the harm your client has caused to date.

I am aware of course that Scientology head and your boss David Miscavige is responsible for these ops against me, the black PR, the threats, the litigation machinations, all the abuse of process, all the use of the law to harass me, and the universal Scientology intention to cause me, Caroline, my family and friends harm. I am also aware that the Fair Game against me and Caroline, and the threats to our reputations, livelihoods and lives will only end when Miscavige personally ends these evils, or someone else puts a stop to him and then ends these evils. I am therefore sending him a copy of this letter in the hope that he comes to his senses, or at least realizes that he cannot win without murdering me, and so ends this disastrous Scientology war.

As you know, what triggered my decision to leave California in 1997 was the discovery of a section of your client's 1023 submission to the IRS that included a pile of black PR on me. All of the reasons why that discovery so affected me aren't important at this time. It is sufficient for the purposes of this letter to know when I left California, and that my leaving was months before your client obtained its first contempt order and jail sentence against me. My leaving could not possibly have been because of that contempt order and jail sentence, or any other contempt order or sentence, or any arrest warrant, which your client procured at any time.

Certainly the unconscionable contract your client was enforcing against me; your client's driving me into bankruptcy with Judge Thomas' judicial enforcement of that unconscionable contract; his unlawful abetment of your client's unlawful efforts to butcher my basic human rights, including my right to defend myself against your client's predations; and your client's continuing to prey on me; were factors in creating a terrifying situation. The black PR to the IRS was a last straw in that already intolerable state.

It didn't help my peace of mind to know that your client had failed to disclose this terrible black PR to me in the discovery phase of the case in which you were using Judge Thomas to gag and ruin me. And Mr. Wilson's threat letter of January 24, 1997, a day after Grady Ward served a subpoena duces tecum on me, didn't make me any less anxious to get away from your client's predations, although I did take a day as I was leaving to report the threat to U.S. District Court Judge Whyte by my declaration of January 26, 1997, which, as you know, is central to your writ petition in the Court of Appeal.

What your client perpetrated against me over many years to get its billion-dollar tax exemption truly appalls me to this day. I believe that unless Scientologists tell the truth about this crime, the organization's leaders will very possibly have me murdered. When I read your client's black PR on me and grasped just how criminal Scientology's leaders and their lawyers are, and just how great the threat of harm or assassination is from them, I left California and returned to Canada, where I had grown up and where Scientology is a criminally convicted organization, and not able to suppress and destroy its victims as Scientology has been able to do in the U.S. I did not flee in face of your superior ethics.

That your client really intended me harm and that I was in real danger when I left California in 1997 has been demonstrated by all the dishonest, aggressive and criminal acts your client has subsequently perpetrated against me in Germany, in Russia, in Canada and in the U.S., including your own participation in this dishonesty, aggression and criminality. My discovery just last year of several more pages of shocking black PR on me in your client's IRS 1023 response has further confirmed my evaluation of your client's criminality and the threat Miscavige and the people around him are to the future opportunities, happiness and life of me and those close to me.

It is true that I didn't return to California during Judge Thomas' time on the bench in Marin County. He had already shown he would enforce your unconscionable contract, and would jail me for discussing the unconscionable contract and your client's efforts to enforce it. He had shown that he would jail me and fine me without proper notice for reporting your client's crimes, even if Federal Law required such reporting. Judge Thomas had shown a total disregard for my constitutionally guaranteed rights, and a facile willingness to gut those rights, most glaringly my right to freedom of religion. I had no delusion about what he would do to enforce your client's unconscionable contract and to completely silence me in order to cover his unlawful enforcement of your unconscionable contract, which he could not but have known was unconscionable

While your black PR about this “flight from the U.S.” and being a “fugitive from justice” is utterly baseless, there does exist, however, a continuing real basis for a claim of damages against your client for my loss of my legal U.S. resident status. You and your client for years have linked my leaving the U.S. and staying away to your efforts to enforce your unconscionable contract. With your dismissal of your appeal of Judge Duryee’s judgment of unconscionability, I now expect your client to remedy its wrong in driving me from my home in the U.S. and causing the loss of my residency. I expect your client to assist me in every way possible with the U.S. Citizenship and Immigration Services to re-establish my legal U.S. resident status. I also expect your client to compensate me for the years of lost U.S. residency, for driving me around the world with threats of enforcement of your client’s unconscionable contract, and for the black PR campaign concerning my residency and my forced travels that your client has perpetrated against me internationally.

I happen to agree with what you said in your request for dismissal of the appeal about the unlikelihood of your client ever collecting $500,000 from me, but this unlikelihood is not because of your fanciful flight from the U.S. It is because of several other factors, including the obvious offset created by your efforts to enforce your unconscionable contract and collect a galactic sum far in excess of $500,000. In fact, I believe that at this time I have a monetary claim against your client for at least the difference between the unconscionable amount of $10,050,000 you sought and the $500,000 you were awarded, or $9,050,000.

I also am challenging you on the other “reason” you gave for your dismissal of the appeal while maintaining your writ petition.

> This dismissal does not apply to Appeal Case No. A107095 and is not applicable to the consolidated case No. A107095, the issues of which are wholly separate and distinct from the issues in Case No. A107100 and which remains active and pending, and which is fully briefed.

Not only is this another lie, but you are estopped from telling this lie to the Court of Appeal because it is a completely inconsistent with the position your client took in its motion filed in the Court of Appeal July 16, 2004 to consolidate the appeal and petition.

> This motion is made on the ground that the evidence and the legal questions presented by both matters are so related as to make it advisable to consolidate them.
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> [...]
>
> CONSOLIDATION IS NECESSARY TO CONSIDER TOGETHER TWO MATTERS WHICH CONCERN ISSUES ARISING FROM THE SAME AGREEMENT AND WHICH HAVE OVERLAPPING APPELLATE RECORDS
>
> The standard test for consolidation on appeal is whether the cases to be consolidated share at least one common issue. [Cite]. This is a factual question which requires consideration of "whether the questions presented are so related as to make it advisable to consolidate..." [Cite] There is no question here that the standard has been met for the following reasons:
>
> 1. Both [*Scientology v. Armstrong*, Marin Superior Court Case No. 157680 ("Armstrong IV")] and [*Scientology v. Armstrong*, Marin SC Case No. CV 021632 ("Armstrong VII")] arise out of Armstrong's breaches of the Agreement. The breaches upon which [Armstrong VII] is based are the same breaches upon which the third contempt order in [Armstrong IV] was based.
>
> 2. [Armstrong IV] and [Armstrong VII] were consolidated by Judge Duryee on April 9, 2004. Both the appeal in [Armstrong VII] and the writ petition in [Armstrong IV] arise from orders made by Judge Duryee as a result of the “combined” trial of [Armstrong VII] and the contempt sentencing in [Armstrong VII] [sic].

> 3. One of the principal issues in [Armstrong VII] is whether Judge Duryee's refusal to award liquidated damages in excess of $500,000 contravenes Judge Thomas' ruling on the validity of the liquidated damages provision, and the final judgment, in [Armstrong IV]. One of the principal issues in [Armstrong IV] is whether Judge Duryee improperly conflated the purposes to be served by contempt citations with the purposes to be served by liquidated damage awards by characterizing the judgment in [Armstrong VII] as punishment for the contempts in [Armstrong IV].
>
> 4. The Exhibits filed in support of the petition in [Armstrong IV] will substantially overlap the Appendix to be filed in [Armstrong VII].

I have no objection to your dismissal of the appeal, but I strongly object to your lying, and I object to your taking inconsistent or opposite positions in this matter, which your client consolidated, in order to obtain the unlawful results you seek. I believe that your taking this blatantly inconsistent position to get the Court of Appeal to dismiss your appeal compels your dismissal of your writ petition as well.

Even Judge Duryee's Order Re Sentences for Contempt that you seek to vacate by writ inarguably links the issues in your appeal and petition.

> The sentences imposed in the two prior contempt actions, in Marin Superior Court Case No. 152229/157680, which is consolidated herewith, are discharged upon entry of judgment against Armstrong herein.
>
> […]
>
> On the order of contempt issued July 13, 2001, Armstrong is sentenced to five days in jail and a fine of $1,000. The fine is concurrent with the judgment rendered in this action.

The judgment that Judge Duryee tied to the sentences against me was obviously her Order Granting Plaintiff's Motion for Judgment, which was entered May 20, 2004, and which your client appealed. Your representation to the Court of Appeal in your request for dismissal of the appeal that the issues in your writ petition are wholly separate and distinct from the issues in the appeal is wholly fabricated.

Your client and you dismissed your appeal not because of any flight by me and a consequent unlikelihood that you could collect $500,000 from me, but because you knew you were going to lose the appeal. You knew you were going to lose the appeal because the unconscionable contract you were trying to enforce in order to ruin me had finally been seen as such by a fair judge.

Your client was apparently unable to successfully wage its War on Judges against the First District's Division Four Justices, so you dismissed the appeal to avoid, among other things, a precedential appellate opinion that your unconscionable contract is indeed unconscionable. Your client is of course continuing to wage its litigation campaign on Judge Duryee, shamelessly characterizing your assaults as upholding the Court's dignity. Don't forget that in that unconscionable contract, and in the unconscionable events its attempted enforcement has spawned, you, Mr. Moxon, are a personal beneficiary.

Regardless of the reasons, specious or real, for your request to dismiss your appeal, however, the Court of Appeal has dismissed it, and your client and you have accepted Judge Duryee's May 20, 2004 judgment, and must abide by it. Your client has accepted that it would unconscionable to punish me beyond what the benefit was that was conferred to me. Thus not only are the issues in the appeal not wholly separate and distinct from the issues in the petition, the judgment is now *res judicata* as to key issues in the petition.

By your voluntary dismissal of the appeal, the judgment in fact now acts as a total bar to your prosecution of your writ petition, because what you seek with that petition is to punish me beyond what the benefit was that was conferred to me. The law of the case, which, with your appeal dismissal you have accepted, is, certainly upon this dismissal, that all such punishment is unconscionable. It is unconscionable that you continue to prosecute your petition past the date of entry of the judgment, which was, as you know,

May 20, 2004.

It is moreover contemptuous of your client and you to pursue this unconscionable punishment, because in so doing you are violating the Marin Superior Court's judgment, the appeal from which you just dismissed. You really have no lawful choice but to immediately dismiss your petition. To not do so is more punishment of me in violation of the judgment, and thus unconscionable, contemptuous and actionable.

I believe, and am going to pursue every legal remedy for this wrong, that punishing me with even the first fifty thousand dollars, or the first threat, or the first lawsuit, or the first OSC, or the first contempt order, or the first fine, or the first jail sentence, or the first black PR, was just as unconscionable as the punishment your client and you are inflicting on me after entry of Judge Duryee's judgment. I do not believe your client ever had a lawful right to punish me with enforcement of its unconscionable contract, or to punish me in any other way at any time, and that all such punishment was unconscionable and unlawful. We do not have to agree, however, to this unconscionability or unlawfulness at this time. It is sufficient here that your client and you have agreed to Judge Duryee's judgment, which states that the punishment you are now inflicting on me is unconscionable.

The Marin Superior Court is not seeking to punish me. Only your client and you are seeking to punish me, and you are prohibited by the Court's judgment, which you have now accepted, from doing precisely what you are doing. It is obviously your client and you who want to inflict this punishment that is barred by the judgment, because Judge Duryee specifically dispensed with the very punishment you seek to have reinstated. In fact, your client has filed its petition against the Marin Court making the Court the respondent and putting it in the position of having to defend against what Scientology wants: to unconscionably punish me in violation of the Court's own judgment.

The reason your client and you give for pursuing a writ of mandate or certiorari to have the Court of Appeal direct the Marin Superior Court to punish me is as perverse as what you are doing is unconscionable. Your client claims in its petition that the purpose of the punishment it seeks to inflict upon me is to "vindicate the dignity and authority of the court," which you also claim I was, back in 1997, 1998 and 2000, "actively repudiating." You and your client are pursuing this mission of "vindicating the dignity and authority of the court," by willfully violating the court's judgment. It is your client and you who are actively repudiating the court's dignity and authority, which your mission gimmick says you are to claim to be upholding. Scientology upholding of the dignity and authority of wog courts is like the devil upholding the dignity and authority of God.

Don't forget that I have never accepted Judge Thomas' judgment, your judicial enforcement of which originally gave you the jail sentences and fines you now seek to have reinstated. But your client and you have accepted Judge Duryee's judgment. Judge Duryee's judgment is a huge first step toward the complete revocation of the Thomas judgment. Don't forget too that your client and its lawyers obtained the involuntary dismissal of my original appeal of the Thomas judgment by unlawful means, which I have detailed in my respondent's brief and my opposition to your petition for writ. Thus the Thomas judgment was always on the shakiest of grounds, and Judge Duryee has given it the shake it has always needed.

Your client states in its petition:

> In contrast to compensatory damages, the "enforcement of an order of contempt in this state is not for the vindication of a private right but is for the maintenance of the dignity and authority of the court, and to preserve the peace and dignity of the people of the State of California." [Cite]

Your client is obviously referring to the liquidated damages as compensatory damages, yet the same principle of California law applies to the punishment your client and you seek with your writ petition. What your client seeks are actually compensatory damages, and are unrelated to the dignity and authority of the court, except as what you are doing undermines that dignity and authority. The compensatory damages that your client seeks are my punishment beyond the entry of Judge Duryee's judgment, which is strictly

forbidden by that judgment, which your client has, with its dismissal of its appeal, accepted.

Your client seeks to be compensated for my exercise of my basic human rights and my defending myself against your client's predations by punishing me with jail time and fines. The punishment you seek is for your client's benefit, and your benefit, as reflected in your "basis of relief" and "prayer for relief" in your petition. Mr. Wilson stated very clearly why your client wanted me jailed and fined during the trial before Judge Duryee.

> Mr. Wilson: And the only way -- the only way that the church can get any satisfaction, or has any chance of having Mr. Armstrong stop this is for the court to tell him we're serious. We ordered you to stop, we meant it. Stop. Go to jail.

The compensation your client and you still seek in prosecuting your writ petition is the very same, the satisfaction of punishing me, of seeing me jailed and fined so you can further punish me with more black PR and Fair Game around the world. David Miscavige can't get no satisfaction until Gerry Armstrong is punished. You and your client are using the court's power to sanction contempts for the purpose of vindicating Miscavige's private right to punish me. Not only therefore is what you are seeking with your writ petition a violation of Judge Duryee's judgment and unconscionable, even absent that judgment what you are seeking is not permitted by law. Your client and you really have no lawful option but to immediately dismiss your petition.

As you know, your client stated as settled law in its petition concerning the jail and fine punishment it seeks to inflict on me, that "where there are "mitigating factors," remission may be appropriate." Your client also stated that there exist "no grounds for remission of [my] contempt sentences." In my opposition to your petition, I identified several mitigating factors or grounds for remission. The record is full of mitigating factors. And now there is the most mitigating of all mitigating factors, that by Judge Duryee's judgment, which with your dismissal of the appeal you have now accepted, the punishment you seek is unconscionable.

The Court of Appeal obviously is not the trier of fact as to whether there exist mitigating factors that make the Marin Court's remission of that punishment appropriate. I believe, as I've said, there exists an overwhelming set of mitigating factors. But the Marin Court is the trier of fact, and, if there really does exist a question of fact as to the existence of mitigating factors, the correct judicial action is to send the contempt matters back to that Court. To determine whether mitigating factors or grounds for remission exist and whether any such mitigating factors are sufficient to have made the Court's remission of my punishment appropriate, the Court would have to retry the three contempt charges.

The Marin Court has obviously already decided at my April 2004 trial that mitigating factors exist, because the Court remitted all three jail sentences and all three fines. On retrying the contempt charges, if the Marin Court finds there are no or insufficient mitigating factors after all, the Court would, presumably, unremit the punishment. Contempt proceedings, however, are of course quasi-criminal in nature, so retrying these contempt charges, which is the only way for the trier of fact to determine if mitigating factors existed, unlawfully subjects me to double jeopardy.

Finally, because of your voluntary dismissal of your appeal of Judge Duryee's judgment I would like to work out with you a format and timetable for a hearing or hearings in the Marin Court to resolve certain issues that have been ripened by that dismissal. The legal authority and guidelines for the immediate hearing I seek are provided by C.C.C. §1670.5, which, as you know, I quote in my respondent's brief and argue is the governing law in the case.

> (a) If the court as a matter of law finds the contract or any clause of the contract to have been unconscionable at the time it was made the court may refuse to enforce the contract, or it may enforce the remainder of the contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

> (b) When it is claimed or appears to the court that the contract or any clause thereof may be unconscionable the parties shall be afforded a reasonable opportunity to present evidence as to its commercial setting, purpose, and effect to aid the court in making the determination.

As I stated in my brief, your client's remedy by statute was not to try to get the Court of Appeal to overturn the judgment of unconscionability, a course you have now abandoned with your appeal dismissal. Your client's remedy was to avail itself of the evidentiary hearing that your client is afforded by C.C.C. §1670.5, obviously in the Marin Superior Court, as to your contract's commercial setting, purpose, and effect. If the Court had adjudged your contract unconscionable after such a full hearing, that would be the time for you to appeal. Your client actually appealed the unconscionability judgment prematurely in order to avoid the statutory evidentiary hearing. You and your client then chose to dismiss the appeal, hoping again to perhaps be able to avoid rather than avail yourselves of such a hearing. The Court of Appeal should have reached that result or remedy, as California's Unconscionable Contract Statute is very clear, if you had not dismissed the appeal and I had prevailed.

Just as your client, upon the appearance to the court that your contract is unconscionable, is to be afforded an evidentiary hearing as to the contract's commercial setting, purpose, and effect, so am I, the other party, to be afforded such a hearing. As you know, I requested the Court of Appeal in my respondent's brief to order an evidentiary hearing in accordance with C.C.C. §1670.5, and with your dismissal of your appeal the opportunity for the Appellate Court to order the Marin Court to afford me such a hearing is also gone. My remedy now is to go directly to the Marin Court and request the Court to set an evidentiary hearing, and I would like your client to either join in my request for a hearing, since you have to be there anyway, or to at least not oppose my request.

As you know, I have had no reasonable opportunity to request an evidentiary hearing of the Marin Court because of your appeal of the unconscionability judgment and the long unexplained delay in my lawyer Ford Greene's receipt of the judgment from the Court or Mr. Wilson, which immediately preceded the appeal. Following the April 9, 2004 trial, Mr. Wilson and Mr. Greene engaged in a number of weeks of back-and-forth over the form of the orders to incorporate the rulings Judge Duryee made at trial. Because Mr. Wilson and Mr. Greene were unable to agree on the language of the orders, Judge Duryee herself wrote the two orders, which were entered on May 20.

Mr. Wilson received the two orders, but Mr. Greene did not receive either of them, however, and continued to communicate with Mr. Wilson to try to reach an agreement on the language for the two proposed orders. In fact, as late as July 8, 2004, Mr. Wilson forwarded to Mr. Greene another proposed judgment for Mr. Greene's approval as to form. Mr. Greene only learned from Mr. Wilson about Judge Duryee's May 20 orders on July 12, on which date Mr. Greene went to the Marin Courthouse and obtained copies of those orders. On July 15 your client, who along with its lawyers had possessed the orders for almost two months, filed its notice of appeal and its petition for writ of mandate or certiorari.

Thus I have never had an opportunity to request the Marin Court to set the evidentiary hearing that I am to be afforded pursuant to C.C.C. §1670.5, and with your dismissal of your appeal I will now do so. I am sure your client wished that my right to such an evidentiary hearing had been dismissed or lost along with your appeal, but the dismissal actually makes the need for a full hearing more acute. With your voluntary dismissal, you have accepted Judge Duryee's judgment, and you have accepted that where it conflicts with Judge Thomas' judgment, Judge Duryee's judgment rules. You have acknowledged that unconscionability trumps res judicata and collateral estoppel, which of course unconscionability must.

You have also accepted with your voluntary dismissal of your appeal that liquidated damages in your client's contract are punishment, which of course they are. As I already stated in my respondent's brief in the appeal, your client argued in its opening brief, perhaps crafted by Mr. Wilson, that because the law does not permit liquidated damages to be punishment, the punishment that your client's liquidated damages clause subjects me to cannot be punishment; otherwise the liquidated damages would be punishment, which liquidated damages cannot by law be.

> The trial court erred in confusing cumulative judgments exceeding $800,000 with punishment because, as a matter of law, liquidated damages are not and cannot be punishment. The trial court also had no authority to limit CSI's recovery under the liquidated damages provision by characterizing it as "unconscionable." A reasonable, enforceable liquidated damages provision is, by definition, not unconscionable.

There is now a final judgment, which you have accepted, that says that the liquidated damages provision is unconscionable. Therefore the provision is, as your client says, not reasonable and not enforceable. The judgment states moreover that the monetary sanctions your client has been attempting to obtain against me, which your client and its lawyers have been calling liquidated damages, is actually punishment. Since liquidated damages may not by law, as your client also says, be punishment, the "liquidated damages provision" is unlawful and cannot lawfully be enforced.

Although Judge Duryee did not state in her judgment that punishing me up to $500,000 was unconscionable, she also did not state that it was not unconscionable. The judgment simply states that punishing me beyond $500,000 was unconscionable. I am claiming that all of the punishment your client has been calling liquidated damages, from the first dollar through the last impossibillion dollars, is unconscionable. I shall now do whatever I can to be afforded, as provided in C.C.C. §1670.5, a reasonable opportunity to present evidence as to the contract's commercial setting, purpose, and effect to aid the Marin Court in making the determination that the contract is, as your client has attempted to enforce it, and is still obviously actively attempting to enforce it, in all ways unconscionable.

There has never been a hearing on the commercial setting, purpose, and effect of the contract, and it is sorely needed in this litigation war your client, and you, are waging on me. Your client and its lawyers have gone to criminal lengths to prevent me from getting a fair hearing or trial. Yet, absent a fair, conscionable settlement, a fair hearing or trial is about the best thing I could work for to give either me or your multitudinous client peace. It will give me peace, because I've been fighting for a fair hearing for something over sixteen years, just to get that fair hearing. By its refusal to be fair and give me a fair hearing, of course, your client is saying, as it has always said, that it doesn't want peace. It wants to war on me and get its satisfaction by punishing me.

I am not kidding myself that I'm a lawyer, and I know that I have been blessed far beyond my severe limitations and resourcelessness in lasting against your client and its lawyer army in the legal arena this long. I know that to prosecute my claims against your client I will need a lot of help, and even to proceed with the C.C.C. §1670.5 evidentiary hearing I really will need a lawyer. I'm going to do what I can to involve lawyers in my situation and claims, and I hope that your client's dismissal of its appeal and the effects of the dismissal, some of which effects I've touched on in this letter, will make my legal situation and claims much more fetching. In the meantime, you have to deal with me, so I want to tell you that I'm available should your client or you wish to discuss dismissal of your writ petition, or the setting of a C.C.C. §1670.5 hearing in the Marin Court, or even about settling this war once and for all.

I have not addressed in this letter a number of issues that exist between your client and me, such as religious liberty, the constitutional guarantees for which also completely bar your client from doing what it's doing to punish me, and the obvious malicious prosecution cause of action that has matured with your voluntary dismissal of the appeal. Clearly your client and its lawyers and I have many things to discuss in order to bring an uncataclysmic end to your long war on me. For now, I would like your client to take the simple steps I have suggested in this letter, which, with your dismissal of your appeal, I believe your client and you must take.

Correct the record and tell the Court of Appeal that there was no flight from the U.S. and I am not a fugitive from justice.

Dismiss your writ petition, and cease all efforts of any kind to punish me.

Agree to a C.C.C. §1670.5 evidentiary hearing in the Marin Superior Court on the commercial setting,

purpose, and effect of your contract.

And, although I haven't mentioned it in this letter, I will also take this opportunity to again make a demand upon Scientology and David Miscavige to return my manuscript, artwork and other documents that were stolen by Miscavige's agents from the trunk of my car. If he has destroyed these things, I expect to be monetarily compensated. I believe that a fair value would far exceed five hundred thousand dollars.

I will, Inshalla, and unless you dismiss your writ petition, be in the Court of Appeal in San Francisco on September 21 for oral argument. Perhaps you and your client would be willing to meet with me and discuss the issues between us at that time.

Yours sincerely,

Gerry Armstrong
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cc: Andrew H. Wilson, Esquire
David Miscavige